

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्रा, लेखा सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &  
SHRI AVDHESH KUMAR MISHRA, AM

**आयकर अपील सं. / ITA No: 736 & 737/RPR/2025**  
(निर्धारण वर्ष Assessment Years: 2014-15 & 2015-16)

Rajat Kumar Gupta, Near Power House Road, Tatapani, Ramanujganj, S.O., Surguja- 497220, C.G.	v s	Income Tax Officer-1, Kharsiya Marg, Near Ambika Petrol Pump, Ambikapur-497335, C.G.
<b>PAN: BPFPG5887N</b>		
<b>(अपीलार्थी/Appellant)</b>	.	<b>(प्रत्यर्थी / Respondent)</b>
निर्धारिती की ओर से / Assessee by	:	None
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	23.12.2025
घोषणा की तारीख / Date of Pronouncement	:	05.01.2026

**आदेश / ORDER**

**Per Bench:**

Since facts, grounds and issues involved therein are common and identical; therefore, these appeals were heard together for adjudication by this common order for the sake of brevity and convenience.

2. The captioned appeals for Assessment Years ('AYs') 2014-15 and 2015-16 filed by the assessee are directed against orders of the Commissioners of Income Tax (Appeals), National Faceless Appeal Centre

(‘NFAC’), New Delhi [‘CIT(A)’] passed under section 250 of the Income Tax Act, 1961 (‘Act’) on 30.09.2025 (Both orders are even dated).

3. The assessee has raised following grounds in these appeals:

**ITA No. 736/RPR/2025**

- “1. That under the facts and the law, the Order of authorities below is not as per law. Addition of Rs.90,55,107/- kindly be deleted.*
- 2. That under the facts and the law, the Ld. CIT(Appeals) erred in not admitting the Appeal relying on S. 249(4) though tax as per ITR of Rs.1,94,743/- was paid on 19.03.2022. Prayed to delete the addition of Rs.90,55,107/- made u/s 69.*
- 3. That under the facts and the law, the Ld. AO erred in making an addition of Rs.90,55,107/- u/s 69A of the Act on account of credit in the Bank Account as unexplained credits. The Ld. AO failed to appreciate the said credits pertains to business receipts. Prayed to delete the addition of Rs.90,55,107/-.”*

**ITA No. 737/RPR/2025**

- “1. That under the facts and the law, the Order of authorities below is not as per law. Addition of Rs.70,53,181/- kindly be deleted.*
- 2. That under the facts and the law, the Ld. CIT(Appeals) erred in not admitting the Appeal relying on S. 249(4) though the Appellant has paid tax of Rs.61,200/- on 19.03.2022 and balance sum of Rs.48,350/- has been paid on 11.10.2025 upon knowing the mistake*

*in calculation. Prayed, the Ld. CIT(Appeals) should have admitted the Appeal, the addition of Rs.70,53,181/- kindly be deleted.*

3. *That under the facts and the law, the Ld. AO erred in making addition of Rs.70,53,181/- not considering the explanation and also not considering the narration in the Bank Statement which the Ld. CIT(Appeals) erred in confirming. Prayed that the deposit into Bank is from business receipts and the Appellant has considered the same in Return of Income by applying provisions of Sec. 44AD. Prayed to delete the addition of Rs.70,53,181/-."*
4. The relevant facts giving rise to these appeals, as evident from records, are that the assessee's Saving Bank Account maintained in HDFC Bank since 27.08.2013 discloses cash deposits and credits/transfers through banking channel aggregating to Rs.90,55,107/- and Rs.70,53,181/- in AYS 2014-15 and 2015-16 respectively. As per the information available on records, the assessee has not filed his Income Tax Return ('ITR') of AY 2013-14 within the stipulated time provided under section 139 of the Act. However, he has filed ITR of AY 2015-16 on 30.12.2016 declaring income of Rs.2,63,500/-. Since the aggregate of cash deposits and credits/transfers through banking channel in the Saving Bank Account of the assessee were not in coherence with the income declared in the ITR; therefore, the assessee's cases of these years were reopened under section 148 of the Act vide notices dated 28.03.2021 and 31.03.2021. It is evident from assessment orders that the assessee neither filed any ITR within the stipulated time in

response to the notices issued under section 148 of the Act nor he responded to any notices issued under section 142(1) of the Act. Therefore, the Ld. Assessing Officer ('AO') had not any option except to complete assessments of relevant years ex parte. Since the assessee, during the course of reopened assessment proceedings, did not offer any explanation with regard to the above-mentioned cash deposits and credits/transfers through banking channel aggregating to Rs.90,55,107/- and Rs.70,53,181/- in AYs 2014-15 and 2015-16 respectively; therefore, the Ld. AO treated the bank deposits/credits as unexplained and taxed the same under section 69A of the Act.

**4.1** Aggrieved with both assessment orders, the assessee filed appeals before the Ld. CIT(A), who dismissed both appeals without admitting them on the reasoning that these appeals were non-maintainable as the assessee had not deposited the admitted taxes as per ITRs claimed to have been filed before completion of the relevant assessments. The Ld. CIT(A) has reproduced the detailed narrations of credit transactions of the saving bank account of the appellant assessee in para 8.2 of the impugned orders. It is evident from para 8.2 of the impugned orders that almost all credits through banking channel have been received from various business entities. Further, the Ld. CIT(A) had not adjudicated any grounds of appeals though the impugned orders narrated all the facts and submissions of the appellant

assessee. The relevant findings of the Ld. CIT(A), in ITA No. 736/RPR/2025, read as under:

*“It is observed that the assessee has furnished Income Tax Return for AY 2014-15 on 19.03.2022. The returned income is shown as Rs.8,42,500/-. The assessee in its response claimed that the return was furnished in response to notice u/s 148. In this return of Income the assessee has shown income tax including interest payable of Rs.1,94,743/-. The assessee has not furnished any evidence that this tax was paid by the assessee.*

*As per provisions of section 249(4) the appeal is not admissible if the assessee has not paid the tax due on the income returned by him or where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him. The relevant provision is reproduced as under-*

*“[(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,*

*(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or*

*(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:*

*Provided that, [in a case falling under clause (b) and] on an application made by the appellant in this behalf, the {“\*\*} [Joint Commissioner (Appeals) or the] [Commissioner (Appeals)] may, for any*

*good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of [that clause].}*"

*In this case, the return of Income is furnished by the assessee was not filed within the prescribed time limit in response to notice issued u/s 148. It appears that the AO has not taken cognizance of the return filed beyond the due date. However, the assessee has admitted income as per the return of Income and has not made payment of taxes due as per the return of Income. Hence, the case of the assessee is covered by the provisions of section 249(4)(a) of the Income Tax Act. The appeal is therefore not admissible.*

*Without prejudice to the above, if it is considered that the return filed beyond due date is not valid, hence this is a case where no income tax return is filed. Then the case is covered by section 249(4)(b) of the Income Tax Act. As per the information provided by the assessee himself the advance tax liability was not discharged by the assessee. The appellant has not filed an application to exempt him from the operation of the provisions of that clause. Hence, the appeal is not admissible under this provision also.*

*In view of clear mandate of the provisions of section 249(4) of the Income Tax Act, the appeal is not admitted for adjudication."*

5. Before us, none attended on behalf of the appellant assessee. Therefore, we heard the Ld. Senior Departmental Representative ("Sr. DR"). With the help of facts mentioned in assessment orders and impugned orders, she submitted that reasonable opportunities of being heard were provided to the appellant assessee by the Ld. AO and also by the Ld. CIT(A). However,

the appellant assessee tactfully ensured noncompliance to avoid proper investigations. Hence, she prayed for dismissal of these appeals and upholding of orders of the authorities below. She argued the case vehemently.

6. We heard the Ld. Sr. DR and perused the material available on records. It is evident from grounds of appeals taken before us that the appellant assessee had paid admitted taxes as per his ITRs claimed to have been filed before completion of the relevant assessments as under:

- (1) ITA No. 736/RPR/2025: Rs.1,94,743/- was paid on 19.03.2022.
- (2) ITA No. 737/RPR/2025: Rs.61,200/- on 19.03.2022 and remaining sum of Rs.48,350/- on 11.10.2025.

7. We have perused the Central Board of Direct Taxes (CBDT) notification bearing F. No. S.O. 3296 (E), dated 25-9-2020 issued in exercise of the powers conferred under section 250(6B) of the Act. The relevant part of this Notification reads as under:

***“4. Faceless Appeal Centres.–***

*(1) For the purposes of this Scheme, the Board may set up-*

- (i) a **National Faceless Appeal Centre** to facilitate the conduct of e-appeal proceedings in a centralised manner, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;*

- (ii) **Regional Faceless Appeal Centres** as it may deem necessary to facilitate the conduct of e-appeal proceedings, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;
- (iii) **Appeal units**, as it may deem necessary to facilitate the conduct of e-appeal proceedings, to perform the function of disposing appeal, which includes admitting additional grounds of appeal, making such further inquiry as thinks fit, directing the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry, seeking information or clarification on admitted grounds of appeal, providing opportunity of being heard to the appellant, analysis of the material furnished by the appellant, review of draft order, and such other functions as may be required for the purposes of this Scheme;

and specify their respective jurisdiction.

(2) All communication between the appeal unit and the appellant or any other person or the National e-Assessment Centre or the Assessing Officer with respect to the information or documents or evidence or any other details, as may be necessary under this Scheme shall be through the National Faceless Appeal Centre.

(3) The appeal unit referred to in clause (iii) of sub-paragraph (1) shall have the following authorities, namely: –

(a) one or more Commissioner(Appeals);

(b) such other income-tax authority, ministerial staff, executive or consultant to assist the Commissioner (Appeals) as considered necessary by the Board.

**5. Procedure in appeal: —**

*(1) The appeal referred to in paragraph 3 shall be disposed of under this Scheme as per the following procedure, namely: -*

***(i) the National Faceless Appeal Centre shall assign the appeal to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system;***

***(ii) where the appellant has filed the appeal after the expiration of time specified in sub-section (2) of section 249 of the Act, the appeal unit may, —***

***(a) in case, it is satisfied that the appellant had sufficient cause for not filing the appeal within the said time, admit the appeal; or***

***(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;***

***(iii) where the appellant has applied for exemption from the operation of clause (b) of sub-section (4) of section 249 of the Act, the appeal unit may, —***

***(a) admit the appeal and exempt the appellant from the operation of provisions of said clause for any good and sufficient reason to be recorded in writing; or***

***(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;***

***(iv) the National Faceless Appeal Centre shall intimate the admission or rejection of appeal, as the case may be, to the appellant;***

***(v) where the appeal is admitted, —***

***(a) the appeal unit may request the National Faceless Appeal Centre to obtain such further information, document or evidence from the appellant or any other person, as it may specify;***

*(b) the appeal unit may request the National Faceless Appeal Centre to obtain a report of the National eAssessment Centre or the Assessing Officer, as the case may be, on grounds of appeal or information, document or evidence filed by the appellant;*

*(c) the appeal unit may request the National Faceless Appeal Centre to direct the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;*

*(d) the National Faceless Appeal Centre shall serve a notice upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, to submit such information, document or evidence or report, as the case may be, as may be specified by the appeal unit or as may be relevant to the appellate proceedings, on a specified date and time;*

*(vi) the appellant or any other person, as the case may be, shall file a response to the notice referred to in subclause (d) of clause (v), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, with the National Faceless Appeal Centre;*

.....

.....”

[Emphasis supplied]

8. We have taken note of the categorical observation of the Ld. CIT(A) in cases in hand that the appellant assessee had neither filed any proof of payment of admitted taxes along with Form Nos. 35 and also during the course of appellate proceedings nor filed any application requesting for admission of appeals on the reasoning that there were good and sufficient reasons for not having paid the admitted taxes before filing appeals.

9. After thoughtful consideration of the Notification F. No. S.O. 3296 (E), dated 25-9-2020, we are of the considered view that the admission of any appeal under section 249(2) and 249(4) of the Act, as per the Notification F. No. S.O. 3296 (E), dated 25-9-2020 in "Faceless Appeal Scheme" is in the domain of the National Faceless Appeal Centre [NFAC] or Regional Faceless Appeal Centres [RFACs] as the case may be and such admission of appeal under section 249(2) and 249(4) of the Act is not assigned to the Appeal Unit [AU]. We have taken note of the categorical observation of the Ld. CIT(A) that the appellant assessee had neither filed any proof of payment of admitted taxes during the course of appellate proceedings nor filed any application requesting for admission of appeals on the reasoning that there were good and sufficient reasons for not having paid the admitted taxes before filing appeals. However, we are unable to infer from impugned orders that whether the Ld. CIT(A) has been designated/assigned by the NFAC/[RFACs] to decide the admission of appeals under section 249(2) and 249(4) of the Act and

whether the Ld. CIT(A), if competent authority under “Faceless Appeal Scheme”, has provided any specific opportunity of being heard to the appellant assessee for non-admission of appeals due to non-payment of admitted taxes.

**10.** We have taken note of the fact that the appellant assessee has categorically mentioned under the head “Details of taxes paid” of Form Nos. 35 of both years that he has paid the entire taxes of Rs.1,94,740/- and Rs.61,200/- on 19.03.2022 of corresponding ITA Nos. 736 & 737/RPR/2025 for AYs. 2016-17 and 2015-16 respectively; therefore, section 249(4) of the Act did not get invoked as evident from the narration mentioned at S. No. 9 under the head “Details of taxes paid” of Form 35.

**11.** After thoughtful consideration of facts of these cases, above mentioned observations and the Notification F. No. S.O. 3296 (E), dated 25-9-2020, we are hereby of the considered view that the Ld. CIT(A) has erred in dismissing both appeals without admitting them for adjudication as the Ld. CIT(A), being an appellate authority under the AU, has been assigned with these cases for adjudication of appeals on merit after admission of these appeals by the NFAC/RFACs. The Ld. CIT(A), in view of the Notification F. No. S.O. 3296 (E), dated 25-9-2020, is not authorised to decide the admission of appeals

under section 249(2) and 249(4) of the Act. Hence, dismissal of both appeals without admitting them is therefore, held unjustified.

**12.** The right of appeal of the assessee is to the extent specified by the Act. The Act read with the above Notification F. No. S.O. 3296 (E), dated 25-9-2020 determines the nature, extent, scope and the limitations, if any, imposed thereon [R.B. Jodha Mal Kuthiala Vs. CIT 66 ITR 319 (Delhi)] and [State of Haryana Vs. Maruti Udyog Ltd. (2001) 124 STC 285(SC)]. The Act read with the above Notification F. No. S.O. 3296 (E), dated 25-9-2020 put specific restrictions and limitations on the scope and manner of exercise of the right of filing appeal and also limitations & powers of the Appellate Authorities. Considering the importance of the right to appeal of the appellant, since it bestows upon him an opportunity of getting a wrong undone and to mitigate the possibility of financial loss, the right to appeal should be viewed from a broad-based liberal perspective and not by applying a strict, constricted and myopic view. The decision whether the right to appeal is available in a particular circumstance should be guided by the form and not substance of the order appealed against [CIT Vs. Ashoka Engineering Co. 63 Taxman 510/194 ITR 645 (SC)]. The right of appeal is a valuable right and unless expressly taken away or abandoned, it could not be held that the appellant had abandoned or lost such right by implication [Indian Aluminium Co Ltd. Vs. CIT 162 ITR 788 (Cal.)]. The right to appeal is not merely a matter of

procedure. It is a substantive right. The right must be determined according to the effect the order has on the aggrieved appellant and not merely upon the form or language in which it has been concluded by the Authority concerned [Jaikishan Gopikishan & Sons Vs. CIT 84 ITR 645 (MP)].

**13.** We have also taken note of the fact that the assessee has not filed any ITR within the specified time period including extended time if any provided by the Ld. AO under section 148 of the Act. We are of the considered view that the ITR, if any, filed after the specified time period including extended time has been rightly held as nonest by the Ld. AO. Accordingly, we hold so.

**14.** In view of the above, we are of the considered view that the appellant assessee deserves reasonable opportunity of being heard to make shortcomings or non-compliances as the appellant assessee has not ensured any compliances before the Authorities below. Therefore, considering all the facts, afore-stated observations and without offering any comment on merit of the case, we, in the interest of justice, deem it fit to set aside both impugned orders and remit the matter back to the Ld. CIT(A) to decide these cases on merit subject to admission of the said appeals in accordance with the law and the above mentioned Notification & subsequent Notification(s) if any. We order accordingly. The appellant assessee should ensure compliances during the set-aside appellate proceeding before the Ld. CIT(A). The Ld. CIT(A) is

also required to get the issue of admission of both appeals first by providing reasonable opportunities of being heard to the appellant assessee and thereafter decide these cases, if required, on merit after providing reasonable opportunities of being heard to the appellant assessee.

15. In view of above, both cases are restored back to the file of Ld. CIT(A) for *denovo* adjudication as above.

16. In the result, both appeals of the assessee are **allowed for statistical purposes** as above.

Order pronounced in the open court on 05/01/2026.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(AVDHESH KUMAR MISHRA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 05/01/2026  
Vaibhav Shrivastav, Stenographer

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- Rajat Kumar Gupta
2. प्रत्यर्थी/ The Respondent- ITO-1, Ambikapur, C.G.
3. The Pr. CIT, Raipur (C.G.)

4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,  
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

**// सत्यापित प्रति True copy /**

**आदेशानुसार/ BY ORDER,**

**(Senior Private Secretary)**  
**आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur**